

City of Santa Barbara Police Department

Memorandum

DATE: March 28, 2013

TO: Fire and Police Commission

FROM: Holly Perea, Police Technician

SUBJECT: Nightclub Dance Permit Review: "Whiskey Richards" 435 State St

DISCUSSION:

On February 28, 2013, the renewal for the Nightclub Dance Permit application for Whiskey Richards located at 435 State Street was brought before the Santa Barbara Fire and Police Commission. Based on a review of Whiskey Richards' business practices over the previous year, the Commission recommended a suspension of the premise's Nightclub Dance Permit. However, the owner of the business, William Clayton, was not given proper notice of the February 28th meeting. Therefore, the previous decision of the Fire and Police Commission on the matter was rendered invalid. The owner has now been properly notified of the item's placement on the Fire and Police Commission Agenda for regularly-scheduled meeting on March 28, 2013, at which time the renewal of the Nightclub Dance Permit- will be re-addressed.

In January 2008, Council approved an update to the ordinance pertaining to Dance Permits (Santa Barbara Municipal Code Chapter 5.20). Per this ordinance, all dance permit holders are required to renew their dance permits annually with the Santa Barbara Police Department. This renewal process provides the City the opportunity to review each permitted premise annually to ensure that permit holders continue to operate responsibly, and to allow the Commission to address any concerns involving the public health, safety, and welfare. In addition, a Penalty Matrix was created as a guideline for corrective action and the imposition of penalties on a premise found to be operating in violation of any local or state laws (Attachment 1).

In 2012, the annual renewal process for the Nightclub Dance Permit regarding Whiskey Richards uncovered numerous (and repetitive) violations. Police Department staff discovered that in 2011, in a period of only, 8 months, there were 4 citations involving minors gaining access into the premise, and 3 incidents where cocaine was discovered in possession of Whiskey Richards patrons. Also, because Whiskey Richards holds a Type 48 ABC liquor license, those under the age of 21 are prohibited from entering the premises. Due to the frequency of the aforementioned violations in such a condensed period of time, the Police Department imposed the following additional conditions on the premise's Nightclub Dance Permit as a means of mitigating the problem areas through increased on-premise monitoring, and mandatory training for security guards:

- A restroom attendant must be stationed at the restroom area nightly from 9:00 pm until close. The restroom area must be checked often to ensure no illegal activity is occurring.
- All security guards must complete LEADS and Responsible Beverage Server (RBS)
 Training;
- All security guards must be currently licensed with the California Department of Consumer Affairs as a Propriety Security Officer;
- The individual, partnership, corporation or LLC must possess a Proprietary Private Security Employer's License issued by the California Department of Consumer Affairs.

Additionally, in accordance with terms of the Penalty Matrix, the Police Department issued business owner William Clayton a warning letter informing him of the newly imposed conditions, and offering the opportunity to take part in an "Intervention meeting" to identify ways to prevent future violations. The letter warned Mr. Clayton that "should there be one more citation for drugs and/or patrons under the age of 21 years on premise within the next year, your Nightclub Dance Permit will be brought before the Fire and Police Commission with the recommendation that it be suspended and/or revoked." (Attachment 2)

The current Nightclub Dance Permit issued to Whiskey Richards has an expiration date of January 31, 2013. However, per SBMC §5.20.110(B), if a timely renewal application is filed, the expiration date of the current permit may be stayed until a decision on the renewal application is rendered. Prior to the expiration of the current permit, a renewal application for Whiskey Richards' dance permit was received at the Police Department.

In processing the current renewal application, Police Department staff discovered that during the past year there have been a total of 10 violations that directly relate to the warning issued to Mr. Clayton in 2012. In the past 12 months 3 citations were issued to patrons found to be in possession of drugs, and 8 citations were issued for minors on premise (double the number from the previous review period). During this same time period, there were no reports to the Police Department by Whiskey Richards' security or staff concerning attempts by minors to use false identification ("fake ID") to gain entry into the premise, nor of "fake IDs" confiscated from minors by security.

Whiskey Richards is one of five currently permitted nightclubs located in the 400-block area of State Street. Of the other four, only one holds a Type 48 (Bar) ABC license, (the same type of liquor license held by Whiskey Richards) which prohibits minors to enter the premises at any time. The other three nightclub premises hold Type 47 (Restaurant) liquor licenses, which allow minors to be on the premises. Despite this authorization, the nightclub at 409 State St self-imposes a restriction against minors on premise after 10:00 pm nightly. The crime statistics for all other nightclub premises in the 400 block of Street St during a 15-month period from December 1, 2011 through March 1, 2013, indicateS the following:

- The Type 48: 0 fake ID's reported to SBPD by security & 0 minors cited on premise.
- The Type 47 which has only been in operation since March 2013: 0 fake ID's reported to SBPD by security & 0 minors cited on premise
- The Type 47 which allows minors on premise: 2 fake ID's reported to SBPD by security & 2 minors cited on premise
- The Type 47 which prohibits minors on premise after 10:00 pm: 13 fake ID's reported to SBPD by security & 0 minors cited on premise.

The data shows a positive reflection of the staff's training and ability to differentiate false identification from valid identification. Additionally, the Santa Barbara Police Department considers the reporting of false identification by security as a proactive measure to mitigate concerns of minors inside the premises of these types of drinking establishments.

Despite multiple preventative measures instituted by the Santa Barbara Police Department, including repercussions from phase 1 through 4 of the Penalty Matrix, the violations occurring at Whiskey Richards have increased in the past year. As a result, the Police Department believes that the 5th and final phase of the Penalty Matrix is not only appropriate, but necessary to curb the trend of violations at this premise.

RECOMMENDATION:

Consequently, it is the recommendation of the Police Department that the Nightclub Dance Permit held by William Clayton for the premise at 435 State Street, dba Whiskey Richards, be suspended for a period of six (6) months, effective immediately. It is also recommended that, within the 12-month period following the end of the suspension, should a citation be issued for a violation of the dance permit or dance ordinance, or for a minor discovered on premise, or for any drug-related offense in which a patron is observed by SBPD officers to be selling or using narcotics or marijuana within the premise, Whiskey Richards' nightclub dance permit will be brought before the Fire and Police Commission no later than the next annual review with a recommendation that the Nightclub Dance Permit be **permanently** revoked. The latter recommendation applies only to citations issued as a result of criminal activity or violations uncovered by officers, and shall not include any self-reporting (proactive reports by premise security or staff alerting the SBPD about activity which subsequently results in patron citations).

ATTACHMENTS:

- 1. Penalty Matrix
- 2. Letter to William Clayton dated April 25, 2012.